

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CLIFFORD F. TUTTLE, JR., *et al*,

Plaintiffs,

v.

CITY OF HOUSTON, *et al*,

Defendants.

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Civil Action No. 4:21-cv-00270

CONSOLIDATED WITH

JOHN NICHOLAS, *et al*,

Plaintiffs,

v.

CITY OF HOUSTON; *et al*,

Defendants.

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Civil Action No. 4:21-cv-00272

**DEFENDANTS ASHRAF, GONZALES, LOVINGS, MEDINA, PARDO, REYNA,
SALAZAR, SEPOLIO, AND WOOD’S, RESPONSE TO PLAINTIFFS’ MOTION TO
UNSEAL SUMMARY JUDGMENT RESPONSES AND EXHIBITS**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Nadeem Ashraf, Cedell Lovings, Frank Medina, Oscar Pardo, Clemente Reyna, Manuel Salazar, Eric Sepolio, Thomas Wood, and Robert Gonzales (collectively “Defendant-Officers”) file this Response to Plaintiffs’ Motion to Unseal Summary Judgment Responses and Exhibits [Doc. #361]:

Argument and Authorities

1. The Court has taken note and observed the Harris County District Attorney's actions to re-indict several officers. The proposition to unseal the summary judgment briefing—thereby granting the District Attorney access to *Garrity* statements and other discovery materials not

otherwise accessible—poses significant challenges. These challenges mirror those the Defendant-Officers would encounter should this Court not elect to close the courtroom and seal the trial record. Such concerns have been consistently voiced by the Defendant-Officers since the initial status conference in 2021. See 4/30/21 at 25:9-26:9. During that hearing, the Court affirmed—a stance it has maintained—"I fully agree that the criminal defendants who have asserted their Fifth Amendment privilege here as civil defendants will have their right protected. I have no issue with that, and I'm prepared to honor the assertion of that Fifth Amendment privilege." *Id.* at 27:2-6.

2. The interest to protect Fifth Amendment privilege has only intensified following the extensive discovery undertaken by the City of Houston, culminating in the parties' summary judgment briefing and exhibits. All parties' summary judgments motions and briefings were filed under seal, and Plaintiffs did not oppose those motions. Accordingly, the Defendant-Officers, incorporate by reference the arguments articulated in the City of Houston's Motion to Seal [doc. #302], Gonzales' Motion to file Summary Judgment and Exhibits Under Seal [Doc. #311], Defendant-Officers' Motions in Limine [Doc. #368], and Defendant-Officers' Motion to Close the Courtroom and Seal Pretrial and Trial Record [Doc. #394], respectfully request this Court to reject the Plaintiffs' motion to unseal these records.

3. Plaintiffs rely upon *Bradley v. Ackal*, 954 F.3d 216 (5th Cir. 2020) [Doc. #361 at 6], to advocate for the unsealing of the summary judgment briefing and evidence. However, the circumstances of *Bradley* bear no resemblance to the present case. In *Bradley*, the disclosure pertained solely to a settlement conference resulting in the resolution of the case. 954 F.3d at 222. There was no engagement with summary judgment briefing or evidence, nor did *Bradley* address any Fifth Amendment concerns arising from ongoing or imminent criminal charges against the

parties. Consequently, the “interests favoring nondisclosure” in *Bradley* deviate entirely from the issues at hand. *See id.* at 225.

Conclusion and Prayer

For the reasons outlined above, the Defendant-Officers respectfully implore the Court to deny the Plaintiffs' motion to unseal the summary judgment briefing and exhibits.

Respectfully submitted,

ARTURO G. MICHEL
City Attorney

Date: November 4, 2024.

By: /s/ Christy L. Martin

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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of November, 2024 a true and correct copy of the foregoing document was delivered to all opposing counsel(s) by electronic filing of same in accordance with the District's ECF service rules, to:

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